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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,726	11/18/2003	Robson L. Splane JR.	01LIF96639	5019

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EXAMINER

WHITE, RODNEY BARNETT

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,726

Applicant(s)

SPLANE, ROBSON L.

Examiner

Rodney B. White

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 10 is/are rejected.
- 7) ☒ Claim(s) 3 and 5-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's arguments filed 4/1/2005 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Logan, Jr. (U.S. Patent No. 5,626,389).

Logan, Jr. teaches a lifting toilet chair, comprising a base frame including an upstanding framework having a generally rectangular horizontal open space at its upper end defined by peripheral members; at least one support member 62,68 overlying said base frame, said at least one support member being directly bpivotally connected to a top front at 61 of said base frame and extending rearwardly beyond a top rear peripheral member of said base frame defining said open space; a toilet seat 12 overlying said open space and fixedly secured to said at least one support member 62,68; so that the toilet seat pivots relative to the base frame as at least one

Art Unit: 3636

support member 62,68 pivots relative to the base frame; and a pair of arm rests 20 laterally flanking said toilet seat, wherein each of said arm rests is coupled at a rearward first point 70 to said at least one support member 62,68 (since armrests 20 are bolted to link 62 and link 62 is hinged at 70 to support 68 (link 68) and pivotally connected at a forward second point at 61 to said base frame, and wherein each of said arm rests has a hand grip portion extending forwardly beyond said second point, means for yieldably biasing said at least one support member to pivot upwardly away from said base frame, comprising means for limiting the upward pivoting of said at least one support member away from said base frame to an angle of about forty-five (45) degrees to the horizontal (See Figure 4).

Claims 3 and 5-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Remarks

Applicant has amended claims 1 and 10 to read that the "at least one support member" is "directly pivotally connected to a top front of said base frame". While Applicant may argue that the structure used as a "support member" by the Examiner consists of two links 62,68, together as a whole they form a "support member" and since link 62 is part of that two link "support member 62,68", it is "directly pivotally connected to a top front of said base frame" by way of link 62 to the front of the frame. Therefore,

toilet seat 12 in the Logan, Jr. reference is still fixedly secured to the support member 62,68" by way of link 68 so that the toilet seat pivots relative to the base frame as at least one support member 62,68 pivots relative to the base frame. In the way that toilet seat 12 is attached to the the support 62,68, it therefore pivots since both 62 and 68 exhibit pivoting action, either alone or together. If Applicant does not want to incorporate the allowable subject matter of claims 3 and 5-9 into the independent claims to achieve patentability over the prior art, perhaps he should further define the toilet seat as - - a toilet seat overlying said open space in a substantially horizontal position (or orientation) and being fixedly secured to said at least one support member so that said toilet seat pivots to a substantially vertical position (or orientation) relative to said base frame as said at least one support member pivots relative to said base frame - -.

Examiner placed the word "orientation" in parentheses only to inform Applicant that either term is suitable or acceptable but that he should not use both, either one or the other, but whichever he feels best describes the position of the toilet seat as it is pivoted.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 3636

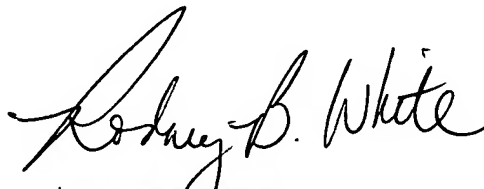
MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,
Patent Examiner
Art Unit 3636
April 14, 2005


RODNEY B. WHITE
PRIMARY EXAMINER